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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

September 16, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Subject: Telephone Number Portability,
CC Docket No. 95-116, RM 8535.

Dear Mr. Caton:

Enclosed please find the original and eighteen copies of the General Services Administration's Reply Comments for filing in the above-referenced proceeding.

Sincerely,

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Enclosures

cc: International Transcription Service
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September 16, 1996

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Summary

GSA urges the Commission to establish rules to exclude indirect costs associated with technology upgrades from the number portability cost compensation or recovery mechanism. All costs, whether common industry or carrier specific, that are directly related to the establishment and operation of number portability should be pooled and administered for payment and recovery by independent, impartial entities. GSA further recommends that the pool administrators assess number portability costs among carriers according to their use of telephone numbers. Those carriers should in turn be allowed to recover their assessed costs by means of a per-number end user charge. They should not be allowed to recover those costs from charges on other carriers.

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
)
Telephone Number Portability)
)
_____)

CC Docket No. 95-116
RM 8535

**REPLY COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION**

The General Services Administration ("GSA"), on behalf of the customer interests of the Federal Executive Agencies, submits these Reply Comments in response to the Commission's Further Notice of Proposed Rulemaking ("FNPRM"), FCC 96-286, released July 2, 1996. The FNPRM begins at paragraph 119 following the First Report and Order in this docket. It addresses the financing of the network modifications and operational costs required for service provider number portability.

I. Introduction

On August 16, 1996, GSA filed Comments in this proceeding. Comments were also filed by:

- The United States Telephone Association ("USTA"), the National Cooperative Telephone Association/Organization for the Promotion and Advancement of Small Telecommunications Companies ("NCTA/OPASTCO"), and 11 Incumbent Local Exchange Companies ("ILECs"),
- 8 state regulatory commission or state consumer advocate offices,

- 3 Interexchange Carriers ("IXCs"),
- 5 Commercial Mobile Radio Service ("CMRS") providers and their associations,
- 6 Competitive Local Exchange Companies ("CLECs") and their associations,
- The Telecommunications Resellers Association ("TRA"), and
- The Ad Hoc Telecommunications Users Committee ("Ad Hoc").

GSA's review of these comments reveals that virtually all of the controversy stimulated by the FNPRM relates to four questions:

1. What costs should be recovered under a Commission-prescribed cost recovery mechanism?
2. Should carrier-specific number portability costs be pooled, or should they be recovered by the individual carriers that incur them?
3. From which carriers and services should the number portability costs be recovered?
4. Should number portability costs be recovered through end-user charges or some other mechanism?

These reply comments address each of these questions in order.

**II. All the Costs, But Only The Costs, Directly Incurred
To Implement Number Portability Should Be Recovered
Under The Commission-Prescribed Recovery Mechanism.**

**A. Network Upgrade Costs Should Not Be
Included In The Recovery Mechanism.**

The FNPRM distinguished among three types of number portability costs (1) shared costs incurred by the industry as a whole, (2) direct carrier-specific costs to implement

number portability, and (3) indirect carrier-specific costs to upgrade networks to provide number portability.¹ The Commission tentatively concluded that its cost recovery mechanism should address only the first two of these cost categories.² GSA agrees.

No party has argued that the third category, the indirect costs to implement number portability, should be recovered through a Commission-prescribed cost recovery mechanism. However, USTA takes issue with the apparent assumption in the NPRM that network upgrades should always be treated as indirectly related to number portability. It proposes inclusion of "Type 2a" costs incurred by small carriers within the Commission designated Metropolitan Service Areas ("MSA's), in cases where the small carriers would not otherwise have to upgrade their systems but for number portability.³ NCTA/OPASTCO agrees that the costs which UTSA describes as Type 2a should be recovered from all users of the telephone system.⁴

GSA is bothered by the finding that is required to implement the inclusion of USTA's Type 2a costs, namely that the network upgrades would not have been incurred but for the requirement to provide number portability. This criterion would require the number administrator to make a determination that is not subject to test or verification. Specifically, GSA does not understand how an administrator could judge whether a network upgrade cost would not have been incurred but for number portability.

¹FNPRM, ¶ 208.

²*Id.*, ¶ 226.

³Comments of USTA, pp. 2-6.

⁴Comments of NCTA/OPASTCO, pp. 5-7.

GSA is concerned that the loophole proposed by USTA could become a vehicle by which many smaller telephone companies could finance the upgrading of their systems at the expense of all telecommunications users. GSA believes that the problems of small telephone companies are adequately addressed by §251(f)(2) of the Telecommunications Act of 1996 ("1996 Act"), which allows for exemptions and modifications of onerous 1996 Act requirements.

**B. Out-Of-Region Costs To Implement Number Portability
Should Be Included in the Recovery Mechanism.**

USTA also identifies what it calls "Type 4" costs incurred by ILECs outside of the areas designated for number portability. These carriers will incur costs to query the databases for calls into number portability regions. CMRS carriers are particularly susceptible to these costs. USTA suggests that these costs should be covered by the Commission's cost recovery mechanism.⁵

GSA believes these costs qualify as "Type 2" costs, that is, costs directly related to providing number portability, and as such, should be included in the recovery mechanism.

The relevance of the designated number portability regions is not in the incurrence of the costs, but rather in their recovery, specifically the identification of the end users who should be obliged to pay these costs. As USTA points out, the regions eligible for number portability do not necessarily determine the geographical scope of the costs of providing number portability. If carriers outside the number portability zones incur costs in completing calls into those zones, they should be compensated even though their subscribers do not have access to number portability.

⁵Comments of USTA, pp. 5-6.

III. Type 1 and 2 Number Portability Costs Should Be Pooled And Administered By Impartial Third Parties.

Virtually all commenters agree that Type 1 costs should be recovered through some mechanism that spreads those costs among all telecommunications carriers or end-users.

There is a major division of opinion, however, with respect to the treatment of Type 2 costs, that is, carrier-specific costs directly related to number portability.

With near unanimity, the ILECs favor the pooling of number portability costs.⁶ These carriers argue that such pooling is the only "competitively neutral" method of recovering such costs. Among the ILECs, only Pacific Telesis favors recovery of carrier-specific costs by the individual LECs.⁷

The IXCs and CLECs display similar unanimity in favor of the opposite position, that individual carriers should recover their own number portability costs from their own subscribers.⁸ They argue that pooling of costs invites waste and inefficiency.

The California PUC proposes a mix of these two approaches. It suggests that perhaps 50 percent of the Type 2 carrier-specific costs should be recovered by the carrier incurring the cost and the other 50 percent through a pooled cost recovery mechanism.⁹

⁶Comments of Bell Atlantic, p. 3-4; BellSouth, p. 8; NYNEX, p.9; SBC Communications, p. 11; U S West, p. 7; GTE, p. 8.; Ameritech, p. 7.

⁷Comments of Pacific Telesis, p. 10.

⁸Comments of AT&T, p. 12; MCI, p. 9; Sprint, p. 8; MFS Communications, pp. 2-4; Teleport Communications Group, p. 7.

⁹Comments of the People of California and the Public Utilities Commission of the State of California ("California PUC")

In its Initial Comments, GSA endorsed the idea of pooling both industry and carrier-specific costs for compensation by impartial administrators. GSA pointed out that the distinction between industry and carrier-specific costs may become blurred. For example, some of the costs initially incurred by individual carriers to establish and maintain databases could later become industry costs as the databases are taken over by number administrators. More importantly, all of these costs will have been incurred to achieve a common goal that benefits all users of the telephone network, which is the ability to port numbers among service providers. For these reasons, all number portability costs should be pooled and shared by all users of the telephone system.¹⁰

The Comments of the other parties have not changed GSA's view. GSA notes that number portability costs are being incurred under statutory mandate, specifically §251(b)(2) of the 1996 Act. GSA believes that the recovery of mandated costs should conform to some reasonable distribution of the responsibilities or benefits that justified the creation of the mandate. There must be a rationale to the distribution of the cost burden of implementing and maintaining number portability.

In terms of incurrence, the principal cost burden of number portability falls on the ILECs, particularly those that serve the 100 largest metropolitan areas. While these carriers bear the costs, they are not responsible for them. The 1996 Act does not state, or even imply, that the ILECs specifically created the need to implement number portability. The responsibility for number portability relates to the general public benefits from restructuring the telecommunications industry.

¹⁰Comments of GSA, pp.4-6.

Those general public benefits do not initially flow to the ILECs that incur the costs. Indeed, on balance, ILECs are arguably injured by number portability. If there are industry members that benefit from number portability, they are the CLECs, who incur negligible costs. The true beneficiaries -- those for whom the statutory mandate was enacted -- are the users of the telephone system. It is they who should bear the burden of creating the capability to port numbers among service providers. That is why GSA favors pooling all number portability costs and recovering them according to the use of portable telephone numbers.

GSA is sensitive to the arguments of the IXCs and CLECs that any system which compensates carriers dollar-for-dollar for costs incurred invites waste and inefficiency. The normal competitive constraints on wasteful expenditure do not apply when someone else recovers the costs.

The solution to this problem is to vest the pool administrators with the power to approve, reject or modify the carriers' applications for compensation. The applicant carriers would have to submit detailed demonstrations that the costs for which they are seeking reimbursement were incurred prudently and efficiently for the purpose, and only the purpose, of establishing and maintaining number portability.

IV. Number Portability Costs Should Be Recovered Only From LECs Providing Number Portability.

Virtually all of the Comments addressed the issue of how the common industry costs, however defined, should be recovered. There has been relatively little support for the Commission's proposal to recover common industry costs according to gross revenue

net of intercarrier payments.¹¹ The LECs object to this proposal on the grounds that it is not competitively neutral. They assert that it would require LECs to pay for access revenue received but would prevent them from recovering this revenue through a surcharge on access charges.¹²

Beyond that, the ILECs are divided. Pacific Telesis believes that each ILEC should recover an allocated portion of common industry costs from its own customers.¹³ NYNEX, BellSouth and Bell Atlantic recommend recovery from all telecommunications carriers, including ILECs, CLECs, IXCs, and CMRS providers, but not on the basis proposed in the FNPRM.¹⁴ SBC recommends recovery according to "Elemental Access Lines," which would include presubscribed toll access lines in addition to local access lines.¹⁵ GTE recommends an end user charge, which effectively limits recovery to LECs.¹⁶ U S West also proposes an end user charge but would allow recovery also from resellers and users of unbundled network elements.¹⁷

¹¹Of the Comments reviewed by GSA, only Time Warner and Teleport Communications Group endorsed the proposal without modification. See Comments of Time Warner, p. 8; Teleport, p. 5.

¹²See, for example, Comments of NYNEX, pp. 7, 8.

¹³Comments of Pacific Telesis, p. 10.

¹⁴Comments of NYNEX, p. 5; BellSouth, p. 5; Bell Atlantic, p. 5.

¹⁵Comments of SBC Communications, p. 7.

¹⁶Comments of GTE, p. 11.

¹⁷Comments of U S West, p. 18.

AT&T recommends five specific rate elements to recover the common industry costs of number portability according the use of number portability and its databases.¹⁸ MCI and Sprint would recover such costs only from LECs according to their share of the customer base in the regions where number portability is available.¹⁹

The CLECs generally support the concept that industry common number portability costs should be recovered from all carriers, including interexchange carriers and resellers.²⁰ As noted earlier, these carriers recommend that carrier-specific costs be recovered by the carrier that incurs them.

In its initial comments, GSA recommended the distribution of number portability costs on the basis of the distribution of telephone numbers, but only in the regions where number portability is available.²¹ GSA observes nothing in the comments of the parties that would disturb this recommendation. GSA's recommendation focuses on the benefit of number portability, which is directly proportional to the use of telephone numbers. Cost recovery should match that benefit, and so the distribution of costs recovery should reflect the distribution of telephone numbers subject to porting.

As GSA acknowledged, this distribution key does not include pure interexchange carriers; nor would it include carriers in regions where number portability is not available; nor would it include one-way CMRS providers for whom number portability is not

¹⁸Comments of AT&T, pp. 6-10.

¹⁹Comments of MCI, p. 3; Sprint, p. 6.

²⁰Comments of MFS, p. 7; Time Warner, p. 7; Teleport Communications Group, p. 4.

²¹Comments of GSA, pp. 6-8.

mandated. These exceptions are reasonable, however, because the subscribers of these carriers do not receive any benefit from number portability.

**V. The Commission Should Forbid Carriers From
Charging Number Portability Costs To Other Carriers,
And It Should Permit A Per-Number End User Charge.**

There are almost as many proposals for cost recovery mechanisms as there are commenters. The proposals generally fall into two categories, a surcharge on existing rates or an end user charge. Only AT&T has recommended specific rate elements.²²

In its Initial Comments, GSA supported flexibility in the mechanism by which a carrier might recover its assigned number portability costs. It did not, for example, oppose the incorporation of these costs into a carrier's overall revenue requirement. This position reflects the uncertainty, noted in the FNPRM,²³ as to whether the 1996 Act deals only with the recovery of costs from carriers, or whether it goes to the further recovery of these assigned costs from end users.

The objection to leaving unspecified the ultimate recovery of number portability costs is the one cited by AT&T and MFS Communications: that a carrier might attempt to recover its costs from charges to other carriers.²⁴ Such action would contravene the "competitively neutral" cost recovery requirement of §251(e)(2) of the 1996 Act.

Accordingly, GSA endorses the recommendations of a number of the commenting parties that the Commission promulgate guidelines as to the form of the ultimate cost

²²Comments of AT&T, p. 8.

²³See FNPRM at ¶ 209.

²⁴Comments of AT&T, p. 10; MFS Communications, pp. 4, 5.

recovery mechanisms adopted by the carriers. These guidelines should direct that costs not be surcharged on rates and charges to other carriers. These guidelines should allow carriers to impose end user charges, including the per-number charge advocated by GSA in its Initial Comments.


VI. Conclusion


As the agency vested with the responsibility for representing the customer interests of all Federal Executives Agencies, GSA urges the Commission to establish rules to exclude indirect costs associated with technology upgrades from the number portability cost compensation or recovery mechanism. All costs directly related to the establishment and operation of number portability should be pooled and administered for payment and recovery by independent, impartial entities. GSA further recommends that the pool administrators assess number portability costs among carriers according the their use of

telephone numbers. Those carriers should in turn be allowed to recover their assessed costs by means of a per-number end user charge. They should not be allowed to recover those costs from charges on other carriers.

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September 16, 1996

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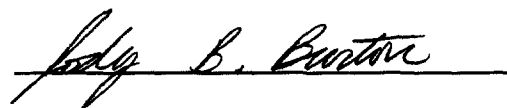
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